

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Treasury

Bureau name:

Michigan Gaming Control Board

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Rule Set Information:

ARD assigned rule set number:

2024-5 TY

Title of proposed rule set:

Internet Sports Betting Rules

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

Section 2(b) of the Lawful Sports Betting Act, MCL 432.402(b), recognizes that this Act is consistent and complies with the Unlawful Internet Gambling Enforcement Act of 2006, 31 USC 5361 to 5367. Otherwise, there are no parallel federal rules or standards set by a state or national licensing agency or accreditation association.

A. Are these rules required by state law or federal mandate?

The proposed rules are authorized under § 10(1) of the Lawful Sports Betting Act, MCL 432.410(1), which says the Board shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 23.201 to 24.328, and may include anything necessary and proper to govern internet sports betting.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

Section 2(b) of the Lawful Sports Betting Act, MCL 432.402(b), recognizes that this Act is consistent and complies with the Unlawful Internet Gambling Enforcement Act of 2006, 31 USC 5361 to 5367. There are otherwise no federal standards.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

The Board compared its vendor requirements and registration to three similarly situated states: Pennsylvania, West Virginia, and New Jersey. These states were selected due to their comparability across several factors, including authorization of internet sports betting, geographic location, market size, operating and regulatory structure (privately-operated, state-regulated), and regulatory history and experience. These states have established licensing standards for suppliers and include registration or certification procedures for companies providing similar services as vendors. All three states have responsible gaming requirements with varying details about providing information to the public and prominently displaying information about responsible gaming.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

In general, the proposed rules are materially consistent with and do not exceed standards in similarly situated states.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

Generally, the proposed rules do not duplicate, overlap, or conflict with other laws, rules, or legal requirements.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

The proposed rules have been coordinated with the Lawful Internet Gaming Act, MCL 432.301 through 432.322.

Purpose and Objectives of the Rule(s)

4. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

(1)The proposed amendments to Rule 432.729 split vendor requirements and vendor registration into two parts. Currently, there are nearly 500 vendors registered with the Board. This reorganization will clarify the process for new registrants and make clear the Board's regulatory authority over vendors.

(2)Currently, Rule 432.754(a) imposes requirements on internet sports betting operators and internet sports betting platform providers to prominently display a specific Michigan gambling helpline on their websites. The proposed amendment to Rule 432.754(a) changes this to a more generic requirement for operators and platform providers to provide a toll-free compulsive gambling helpline while continuing to provide information about how to access additional long-term resources for help with compulsive gambling.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

There is no change in frequency of the targeted behavior expected from the proposed rules.

B. Describe the difference between current behavior/practice and desired behavior/practice.

The difference between current behavior/practice and desired behavior is that vendor requirements and vendor registration will be separate, making the registration process clearer. Further, operators and platform providers will have more flexibility in displaying a toll-free compulsive gambling helpline number so a person can call for help with a gambling problem.

C. What is the desired outcome?

The desired outcome is to: (1) clarify the provisions governing vendor requirements and vendor registration, and to clarify the Board's authority to regulate vendors; and (2) provide more flexibility to operators and platform providers in displaying a toll-free compulsive gambling helpline number while continuing to provide information about how to access additional long-term resources for help with compulsive gambling.

5. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

There is no resulting harm if the proposed rules are not adopted. However, these changes are being made to clarify provisions regarding vendor requirements and vendor registration and provide more flexibility to operators and platform providers in displaying a toll-free compulsive gambling helpline number so a person can call for help with a gambling problem.

A. What is the rationale for changing the rules instead of leaving them as currently written?

The rationale for changing the rules instead of leaving them as currently written is: (1) to clarify the provisions governing vendor requirements and vendor registration, and to clarify the Board's regulatory authority over vendors; and, (2) to provide more flexibility to operators and platform providers in displaying a toll-free compulsive gambling helpline number while continuing to provide information about how to access additional long-term resources for help with compulsive gambling.

6. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The proposed rule changes protect the health, safety, and welfare of Michigan citizens by clearly setting forth the vendor registration and vendor requirements when conducting business with operators and suppliers. Further, the public will still have access to information about the availability of a toll-free compulsive gambling helpline for immediate support and information about how to access additional long-term resources. The proposed changes promote a regulatory environment that is less burdensome because the requirements are clearer, and the operators and platform providers have more flexibility in providing compulsive gambling information.

7. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

There are no rules in the affected rule set that are obsolete or unnecessary.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

8. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

Section 16(1) of the Lawful Sports Betting Act creates the internet sports betting fund in the state treasury. MCL 432.416(1). Application fees, license fees, taxes, and payments provided for in the act are to be deposited into the fund. The Board is the administrator of the fund for auditing purposes. MCL 432.416(3). Upon appropriations, the Board can expend money from the fund to cover the costs of regulating and enforcing the Act. MCL 432.416(4)(a). However, the Board expects no fiscal impact with these proposed rule changes.

9. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

Because there is no fiscal impact on the Board with these proposed rule changes, there is no specific appropriation made for any expenditure with the proposed rules.

10. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The proposed changes to the rules are necessary and suitable to clarify the regulatory framework governing vendors and provide for greater flexibility for operators and platform providers to display a toll-free compulsive gambling helpline number. The proposed changes to the rules do not impose any new fiscal, administrative, or duplicative burdens on individuals.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

Any burden on a person applying to be a vendor is necessary to regulate internet sports betting. The proposed rule change will not burden a person seeking a toll-free gambling helpline for immediate support and information about how to access additional long-term resources.

Impact on Other State or Local Governmental Units

11. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

There are no anticipated increases or decreases in revenues to state or local governmental units because of the proposed rules. The Lawful Sports Betting Act allocates a portion of the taxes and payments assessed thereunder to the city of Detroit, MCL 432.415(1)(a), Michigan agriculture equine industry development fund, MCL 432.415(1)(c), and Michigan strategic fund, MCL 432.415a(b). In addition, any money remaining in the internet sports betting fund after Board expenditures for regulatory costs is expended, on appropriation, for the compulsive gaming prevention fund, MCL 432.416(4)(b), first responder presumed coverage fund, MCL 432.416(4)(c), and state school aid fund, MCL 432.416(4)(d).

12. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

There are no anticipated or intended programs, services, duties, or responsibilities imposed on any city, county, town, village, or school district as a result of these proposed rules.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

There are no anticipated actions that a governmental unit must take to comply with these proposed rules.

13. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

No appropriations have been made to any governmental unit because of these proposed rules. No additional expenditures are anticipated or intended with the proposed rules.

Rural Impact

14. In general, what impact will the rules have on rural areas?

The proposed rules are not expected to impact rural areas.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

The proposed rules should have no impact on public or private interests in rural areas.

Environmental Impact

15. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rules do not have an environmental impact.

Small Business Impact Statement

16. Describe whether and how the agency considered exempting small businesses from the proposed rules.

Section 10(1) of the Lawful Sports Betting Act, MCL 432.410(1), requires the Board to promulgate rules regarding requirements for vendors and vendor registration. Thus, the agency cannot exempt a small business that might be a vendor from the rules. A vendor is a person that is not licensed but supplies goods or services to an internet sports betting operator or internet sports betting supplier. MCL 432.403(kk). Such entities include:

- (a) Affiliate marketers which do not have an agreement based on the sharing of gross receipts or adjusted gross receipts.
- (b) Payment processors.
- (c) A person that provides over \$100,000.00 worth of goods and/or services to any internet sports betting operator or internet sports betting supplier in connection with its Michigan internet sports betting operations in a calendar year.
- (d) Data centers providing physical security and infrastructure.
- (e) Independent integrity monitoring providers.
- (f) Any other person as deemed necessary by the Board.

While vendors are not required to be licensed, it is necessary to have them registered to regulate internet sports betting.

17. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

Proposed Rule 432.729a uses language currently found in Rule 432.729. Thus, the proposed rule change does not increase an economic impact on small businesses. To register with the Board, a vendor files an application and submits a \$200 registration fee, R 432.729a(1). This registration must be renewed every five years, R 432.729a(5). Even though not licensed, vendors are expected to conduct themselves in a manner that does not compromise the integrity of internet sports betting or violate any provision of the Act or rules. Because gaming is a highly regulated industry, it is not possible to specifically exempt small businesses from the vendor registration as it would create a disparity in regulation.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

Currently, there are nearly 500 vendors registered with the Board. Assuming all are small businesses, which many are likely not, those nearly 500 vendors would be affected by the proposed rules. The probable effect of the proposed rule changes is clarity in the requirements for vendors and for registration.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

The Board did not establish separate compliance or reporting requirements for small businesses. To the extent practicable, the proposed rules were drafted to be the least burdensome on all impacted persons.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The Board did not consolidate or simplify compliance or reporting requirements for small businesses.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The Board did not establish performance standards to replace design or operation standards for vendor registrants.

18. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

There is no disproportionate impact on small businesses because of their size or geographical location.

19. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

Vendors, who might be small businesses, have a continuing duty to notify the Board of any change in information previously submitted to the Board. Cost to notify the Board of such changes are minimal.

20. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

There will be no increased cost of compliance for a vendor, who might be a small business, concerning the costs of equipment, supplies, labor, or administrative costs.

21. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

There are no expected costs for legal, consulting, or accounting services that a vendor, who might be a small business, would incur in complying with the proposed rules.

22. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

There are no expected costs to a vendor, who might be a small business, that will cause economic harm or adversely affect competition in the marketplace as a result of the proposed rules.

23. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

Vendors, who may be small businesses, are subject to minimal compliance standards and are required to pay minimal fees. Therefore, enforcing rules that exempt or set lesser standards for compliance by vendors would have minimal impact on vendors and would not materially affect Board revenue or costs.

24. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

There is a public interest in establishing a secure, responsible, fair, and legal system of internet sports betting. To the extent the proposed rules provide for mere registration for a vendor that might be a small business, the public interest is not harmed as the Board retains authority to issue a cease-and-desist order, obtain injunctive relief, or take another action necessary to protect the integrity of internet sports betting.

25. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

No small businesses were involved in the development of the proposed rules. The Board solicited feedback from industry stakeholders in developing the proposed rules.

A. If small businesses were involved in the development of the rules, please identify the business(es).

No small businesses were involved in the development of the proposed rules.

Cost-Benefit Analysis of Rules (independent of statutory impact)

26. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

There are minimal compliance costs because of the proposed amendments. Revenues generated by businesses that participate in the internet sports betting industry are expected to far exceed any compliance costs.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

The internet sports betting operators, internet sports betting suppliers, and vendors will be directly affected by the proposed rule changes and will bear the cost, which should be minimal. Operators, suppliers, and vendors will benefit via the revenue they generate through participation in the regulated internet sports betting industry.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

Except for possibly updating each operator's website to prominently display a different message than what is currently required about a toll-free compulsive gambling helpline number, there will be no additional costs imposed on businesses as a result of the proposed rules.

27. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

There are no additional statewide compliance costs of the proposed rules on individuals.

A. How many and what category of individuals will be affected by the rules?

The public will have access to information about the availability of a toll-free gambling helpline for immediate support and information about how to access additional long-term resources.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

The proposed rules will not have a qualitative or quantitative impact on individuals other than clarifying vendor requirements and the registration process. Gaming is a highly regulated industry and individuals understand the necessity of maintaining a secure, responsible, fair, and legal system of internet sports betting in Michigan.

28. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

There are no cost reductions for businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

29. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The primary and direct benefits of the proposed rules are (1) providing a distinction between requirements for vendors and vendor registration; and (2) providing flexibility to operators and platform providers in prominently displaying a toll-free gambling helpline. The secondary and indirect benefits of the proposed rules are: (1) clarity as to who needs to register as a vendor and what is required of a vendor; and (2) continuing to ensure the public has access to information about the availability of a toll-free compulsive gambling helpline for immediate support and information about how to access additional long-term resources for help with compulsive gambling.

30. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The proposed rules are not expected to have an impact on business growth or job creation or elimination in Michigan.

31. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

Individuals or businesses will not be disproportionately affected by the proposed rules because of their industrial sector, segment of the public, business size, or geographic location.

32. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

The Board relied upon agency staff and its regulatory experience to determine the impact of the proposed rules.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

The Board relied on agency staff and its regulatory experience to formulate estimates and assumptions and determine the need for the proposed rules. The Board also investigated responsible gaming measures to determine the best practice for advising individuals of responsible gaming measures.

Alternative to Regulation

33. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

The proposed changes are minimal. There are no reasonable alternatives to the proposed rules that would achieve the same or similar goals.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

There is no reasonable alternative to the proposed rules; thus, no statutory amendments are necessary to achieve such alternatives.

34. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

No alternative to promulgating administrative rules, including private market-based mechanisms, is feasible to regulate internet sports betting. The Legislature has found it to be in the best interest of this state and its citizens to regulate this activity by establishing a secure, responsible, fair, and legal system of internet sports betting, MCL 432.402(d). Moreover, the Legislature charged the Board with supervising all internet sports betting operations and granted the Board powers and duties to administer, regulate, and enforce internet sports betting, MCL 432.405(1). The Board is not aware of any states that utilize a private market-based system, as opposed to a state regulatory body, for this purpose.

35. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

No significant alternatives were considered during the development of the proposed rules. The proposed rules are intended to align with the requirements and public policy objectives of the Lawful Sports Betting Act. The Board solicited feedback from internet sports betting stakeholders and no revisions were requested.

Additional Information

36. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

The rules inform vendors of the registration process and requirements of being a vendor. Other information, including forms and applications, will be available on the Board's website.